

***CONFIDENTIAL***  
**WEEKLY HOT ISSUES REPORT for RA/DRA Region 8**  
**Week ending February 2, 2018**

**OFFICE OF THE REGIONAL ADMINISTRATOR/ENERGY ADVISOR**

**HOT ISSUES AND IMPORTANT DEADLINES:**

**Cross-Agency Uinta Basin Aerial InfraRed (IR) Camera Survey Project Kick-off Meeting for Operators**

Key Message: A cross-agency team of BLM, Utah Division of Air Quality, Ute Tribe Air Program and EPA R8 have been working together to define, fund and implement a project to survey a large area of the Uinta Basin (UB) to learn about the prevalence and attributes of unintentional emissions from oil & gas wellpads. A stakeholder informational meeting will be held February 14, 2018, in Vernal to describe the project and address questions.

- BLM provided \$90k, UDAQ \$30k and EPA \$25k for a total of \$145k which covers Utah State University (USU) to manage this project and three weeks of helicopter flyover covering ~half of oil & gas wells in UB.
- The Ute Tribe Business Committee passed a Tribal Resolution approving this project.
- The survey will occur in late February and March 2018.
- USU sent out email invitations to operators in the Uinta Basin on February 1, 2018, to participate in an informational meeting in Vernal on February 14, 2018. BLM will provide introductory remarks and USU will present the project approach, the role operators will play, and address questions. USU is checking with the Ute Tribe Air Program manager to see if she would like to make introductory remarks as well. UDAQ and EPA will participate via webinar.
- Cindy Beeler has begun discussion with OCPI to assess whether EPA talking points are needed.
- A steering committee (BLM, UDAQ, Ute Tribe and EPA) and USU-BRC are meeting fortnightly.
- Technical Contact: Cindy Beeler, 312-6204

**OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION**

**HOT ISSUES AND IMPORTANT DEADLINES:**

**R8 completes a Biological Assessment for the Silver Bow Creek/Butte Area Superfund Site**

Key Message: R8 has completed a Biological Assessment for the Silver Bow Creek/Butte Area Superfund Site.

- EPA R8 submitted the BA to the U.S. Fish and Wildlife Service on January 31, 2018.
- The BA concludes that the ongoing site remedial activities May Affect, But Are Not Likely to Adversely Affect the bull trout and its designated critical habitat downstream from the SBCBA site boundaries, as well as the grizzly bear and Canada lynx.
- R8 will continue to work with the US FWS, which will formally respond to the BA this spring.
- There is a pending lawsuit filed by the Alliance for the Wild Rockies against EPA alleging failure to consult with the FWS in violation of the Endangered Species Act. The lawsuit may be dismissed as a result of the BA submittal.
- Contact: Joe Vranka, 406-457-5039

## **OFFICE OF ENFORCEMENT, COMPLIANCE AND ENVIRONMENTAL JUSTICE**

### **HOT ISSUES AND IMPORTANT DEADLINES:**

#### **NPDES Enforcement to Issue Administrative Order to Foxridge Development in River Heights, Utah for Noncompliance with Construction Stormwater Requirements and Failure to Respond to Information Request**

Key Message: National Pollutant Discharge Elimination System (NPDES) Enforcement plans to issue an administrative order to Foxridge Development (owner/operator) for failing to comply with construction stormwater requirements and failing to respond to Section 308 information request. The noncompliance occurred at a home development construction site named Saddlerock Subdivision in River Heights, Utah (site).

- A construction stormwater inspection was conducted on July 11, 2016.
- Preliminary findings were discussed at the end of the inspection with the site owner/operator. A detailed inspection report identifying findings was sent to owner/operator on December 21, 2016.
- The owner/operator became unresponsive to NPDES Enforcement follow-up questions from the inspection. Due to the lack of response, a Clean Water Act Section 308 information request was sent on September 22, 2017, to gather accurate information on parcel ownership and compliance with the construction stormwater permit. The owner/operator did not respond to the information request despite multiple efforts by NPDES Enforcement to contact them by phone.
- The site remains out of compliance with its construction stormwater permit.
- The order will require the site to come into compliance with its construction stormwater permit, provide evidence of compliance, and respond to the Section 308 information request.
- The inspection and follow-up are part of written workshare agreement with the Utah Division of Water Quality (UDWQ). UDWQ supports the administrative order.
- Technical Contact: Laurel Dygowski, 312-6144; Management Contact: Stephanie DeJong, 312-6362

#### **Legal Enforcement Plans to Draft a Consent Decree and Statement of Work for the Butte Priority Soils Operable Unit, Silver Bow Creek Butte Area Superfund Site in Butte, Montana**

Key Message: On January 25, 2018, the United States, the State of Montana, the Atlantic Richfield Company, and Butte Silver Bow County were able to successfully reach conceptual agreement on future Superfund remediation and restoration actions in Butte and related issues.

- The draft consent decree and statement of work will reflect the agreement and proceed through additional public comment and final consent decree negotiations, anticipated for completion next fall.
- Legal Contact: Henry Elsen, (406) 457-5030; Negotiation Team Leader: Martin Hestmark, 312-6776; Remedial Project Manager: Nikia Greene, (406) 457-5019.

#### **Approximately 175 Notices of Potential Environmental Conditions Recorded with Lincoln County, Montana for Properties in Operable Units 4 & 7 of the Libby Asbestos Superfund Site**

Key Message: Approximately 175 Notices of Potential Environmental Conditions, corresponding to properties where EPA was not granted access for investigation and cleanup of Libby Amphibole (LA) asbestos, have been delivered for recording to Lincoln County.

- A second, final batch of Notices is planned for delivery to Lincoln County next week.
- In order to withdraw a Notice of Potential Environmental Conditions in the future, submission of sampling data to EPA and Montana DEQ (and cleanup, if necessary) will be required and will be the responsibility of the property owner.
- Montana DEQ and Lincoln County fully support this approach.
- Legal Contact: Max Greenblum, 312-6108

## **Region 8 Files a Combined Complaint and Consent Agreement Resolving Crestwood Equity Partners, L.P.'s, Civil Penalty Liability from a 2014 Produced Water Spill that Impacted an Unnamed Creek and Lake Sakakawea on the Fort Berthold Reservation, North Dakota**

Key Message: On January 30, 2018, the Region 8 Regional Judicial Officer issued a Final Order approving the terms and conditions set forth in a CCA negotiated by Region 8 and Crestwood Equity Partners, L.P., under Section 309(g) of the Clean Water Act.

- The CCA fully resolves Crestwood's civil penalty liability arising from an unauthorized discharge of approximately 1,095,528 gallons of produced water from the company's Phase IA pipeline in July 2014 that flowed down an unnamed creek toward Lake Sakakawea.
- An estimated 250 barrels of produced water entered the lake's Bear Den Bay.
- The rest of the 5,584 barrels infiltrated into the unnamed creek channel sediments.
- Crestwood agreed to pay a penalty of \$49,000 and provide and deliver emergency response equipment valued at \$173,088 to the Three Affiliated Tribes of the Mandan, Hidatsa and Arikara Nation (MHA Nation) as a Supplemental Environmental Project.
- This penalty phase of the case follows the Administrative Order on Consent and Remediation Plan previously filed under section 309(a) of the CWA on April 24, 2017, to resolve the injunctive relief-phase of EPA's enforcement action against Crestwood.
- The Remediation Plan requires sampling, monitoring, mitigation and restoration of surface water, groundwater and soils for up to four years, and mitigation and restoration of vegetation and trees damaged by the spill.
- In addition to the EPA's action, the MHA Nation issued Crestwood a Notice of Violation under tribal law, assessing a penalty of \$766,750 and demanding reimbursement of response costs totaling \$365,817 for three produced water spills including the July 2014 event on the Fort Berthold Reservation.
- Legal Contact: Amy Swanson, 312-6906; Technical Contact: Emilio Llamozas, 312-6407

## **OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE**

### **HOT ISSUES AND IMPORTANT DEADLINES:**

#### **National Effort to Improve RCRA Waste Analysis Plans Identifies Issues with Clean Harbors' Deer Trail Permit, Colorado**

Key Message: The current Colorado-issued RCRA permit for the Clean Harbor's Deer Trail facility contains language allowing for macroencapsulation treatment of debris within a landfill cell. Under RCRA, hazardous waste must be treated *before* placement within a landfill; placement before treatment is a violation of RCRA's Land Disposal Restrictions (LDRs). The RCRA Program is working with the CDPHE to remove this language and to clarify and strengthen the language in other portions of the permit and the Waste Analysis Plan (WAP), which is a component of the permit, when the permit is renewed in 2019.

- A number of RCRA permits across the nation allow practices that violate LDRs, such as "put piles" and in-cell macroencapsulation.
- The EPA's national workgroup recommends removing the non-compliant LDR language during the permit renewal process as the most efficient way to gain compliance.
- Clean Harbors' RCRA permit and WAP allow the facility to conduct in-cell macroencapsulation. The state plans to complete the permit renewal process in 2019.
- RCRA staff will be meeting with CDPHE staff on February 5, 2018, to further discuss this issue.
- While there is currently no indication that the facility has ever conducted in-cell macroencapsulation of debris, we do not know if the facility would object to this change.
- Contacts: Jesse Newland, 312-6353; Amy Hensley, 312-6176; Nancy Morlock, 312-6421

## OFFICE OF TECHNICAL AND MANAGEMENT SERVICES

*No report*

## OFFICE OF WATER PROTECTION

### HOT ISSUES AND IMPORTANT DEADLINES:

#### **Partial funding of Wyoming Drinking Water State Revolving Fund (DWSRF)**

Key Message: A proposal is being made to Wyoming accommodating both its need for DWSRF set-aside funds and its turning down 2018 DWSRF loan funds.

- Wyoming seeks to turn down the loan fund portion of its FY18 DWSRF capitalization grant but still apply for the DWSRF set-aside funds that are used for program administration and small system technical assistance, due to low drinking water project demand relative to the state's unexpended DWSRF funds balance and the lack of a 2018 state appropriation for state match.
- After consulting with OGC, Region 8 has determined that statutory and regulatory requirements impede the state's original proposal, and will propose instead that the state apply for program administration (\$400,000) and small system technical assistance (two percent of allotment, or \$160,000) under a biannual approach. Wyoming's FY17 DWSRF grant amount was \$8.2 million.
- The region will propose that the grant be structured to provide Wyoming two years from grant award to match the grant. Award is expected to be made in the fourth quarter of 2018.
- The State will need to assess whether this proposed approach is acceptable.
- Contact: Brian Friel, 312-6277